

OFFICIAL REPORT OF PROCEEDINGS
BEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of:

Case No. 16-RC-292620

STARBUCKS CORPORATION,

Employer,

and

WORKERS UNITED SOUTHWEST REGIONAL JOINT BOARD,

Petitioner.

Place: Zoom

Date: April 11, 2022

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OFFICIAL REPORTERS

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Shawnee, Kansas 66226

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**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16**

In the Matter of:

STARBUCKS CORPORATION,

Employer,

Case No. 16-RC-292620

and

WORKERS UNITED SOUTHWEST
REGIONAL JOINT BOARD,

Petitioner.

The above-titled matter came on for hearing pursuant to Notice, before the PAUL SYKES, Hearing Officer, held via Zoom, on Monday, the 11th day of April, 2022, commencing at 9:10 a.m., Central.

A P P E A R A N C E S

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P R O C E E D I N G S

[9:10 a.m.]

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HEARING OFFICER PAUL SYKES: Okay, on the record?

THE COURT REPORTER: We are on.

HEARING OFFICER SYKES: Okay, the hearing will be
in order.

This is a formal hearing in the matter of Starbucks
Corporation, Case No. 16-RC-292620, before the National
Labor Relations Board.

The Hearing Officer appearing for the National
Labor Relations Board is Paul Sykes, S-y-k-e-s.

All parties have been informed of the Procedures at
Formal Hearings before the Board by the service of a
Description of Procedures in Certification and
Decertification Cases, with the Notice of Hearing. I
have additional copies of this document for distribution
if any party wants more.

I want to state on the record, that the -- that for
the hearing, that the intention is to offer and receive
exhibits in an electronic form, where practical. With
respect to each exhibit offered and received in
electronic form, there is no request to have the
electronic documents scanned or otherwise formatted.

So, will Counsel please state their appearances for
the Board?

1 For the Petitioner?

2 MR. QUINTO-POZOS: Yes, Manuel Quinto-Pozos.

3 HEARING OFFICER SYKES: Thank you.

4 Okay, and for the Employer?

5 MS. MEYER: Steve Rahhal, Arrissa Meyer, and Amanda
6 Ploof.

7 HEARING OFFICER SYKES: Thank you.

8 Are there any other appearances?

9 *[No response]*

10 HEARING OFFICER SYKES: Let the record show no
11 response.

12 Are there any other persons, parties, or labor
13 organizations in the hearing room that claim an interest
14 in this proceeding?

15 *[No response]*

16 HEARING OFFICER SYKES: Let the record show no
17 response.

18 Okay, so I would now propose to receive the Formal
19 Papers. They have been marked for identification as
20 Board -- as Board's Exhibit 1(a) through 1(k),
21 inclusive; Exhibit 1(k) being an Index and Description
22 of the entire exhibit.

23 **(Board's Exhibit 1(a) through 1(k), inclusive, marked**
24 **for identification.)**

25 HEARING OFFICER SYKES: The exhibit has already

1 been provided to all parties.

2 Are there any objections to the receipt of these
3 exhibits into the record?

4 *[No response]*

5 HEARING OFFICER SYKES: Okay, hearing no
6 objections, the Formal Papers are received so Board's
7 Exhibit 1 is entered into the record.

8 **(Board's Exhibit 1(a) through 1(k), inclusive, received**
9 **into evidence.)**

10 HEARING OFFICER SYKES: Are there any motions to
11 intervene in these proceedings to be submitted to the
12 Hearing Officer for ruling by the Regional Director, at
13 this time?

14 *[No response]*

15 HEARING OFFICER SYKES: Let the record show no
16 response.

17 Are there any pre-hearing motions that need to be
18 addressed at this point?

19 *[No response]*

20 HEARING OFFICER SYKES: Let the record show no
21 response.

22 The parties to this proceeding have executed a
23 document which is marked as Board's Exhibit 2.

24 **(Board's Exhibit 2, marked for identification.)**

25 HEARING OFFICER SYKES: That exhibit contains a

1 series of stipulations, including, among other things,
2 that the Petitioner is a labor organization within the
3 meaning of the Act, that there is no contract bar, and
4 that the Employer meets the jurisdictional standards of
5 the Board. There are also various other stipulations
6 referring to other records for Board cases in other
7 Regions, as well as references to a Board case, actually
8 in this same District, which I am sure will be discussed.

9 Are there any objections to receipt of Board's
10 Exhibit 2?

11 *[No response]*

12 HEARING OFFICER SYKES: Okay, hearing no objection,
13 Board's Exhibit 2 is received into evidence.

14 **(Board's Exhibit 2, received into evidence.)**

15 HEARING OFFICER SYKES: All right, and I have to ask
16 this...

17 Okay, so I am aware of it, but are there any
18 petitions in other Regional Offices involving other
19 facilities of the Employer?

20 MR. RAHHAL: Multiple.

21 HEARING OFFICER SYKES: Okay, and then, in this
22 particular case, there -- there is a prior petition in
23 this same District. I am trying to find the case number.

24 MR. RAHHAL: I think it is 16-RC-292111.

25 HEARING OFFICER SYKES: Okay, thank you.

1 And now, I will just ask the Employer...

2 In that case that he just referenced, is -- what is
3 the Employer's position on whether that case impacts the
4 instant petition that we are at hearing for today?

5 MR. RAHHAL: It absolutely does.

6 Our argument is that all thirteen stores within this
7 District are so functionally integrated that it is -- I
8 wouldn't say impossible, but it -- under Board standards,
9 the presumption is that they should all be in one single
10 unit, as opposed to thirteen separate units, with possibly
11 thirteen separate terms and conditions of employment,
12 thirteen separate rules, engaging the different Baristas
13 and Shift supervisors.

14 So, absolutely, these two cases have an impact on one
15 another.

16 HEARING OFFICER SYKES: Okay, and I will ask the
17 Petitioner's position on how the other Austin petition
18 impacts this one, or if -- or whether it doesn't impact
19 this one.

20 MR. QUINTO-POZOS: The prior petition impacts this
21 one insofar as some of the testimony will be similar,
22 namely by -- the Union believes by the District Manager,
23 and some of the policies and procedures in -- that are
24 applicable -- at levels above the store level, regionally
25 area-wide and nationwide.

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1 And so, to that extent, the cases have implications
2 for each other. However, a single-store unit is
3 appropriate, both in this case and in the prior case. The
4 Union believes that the evidence will show that there are
5 different working conditions, there are different degrees
6 of employee interchange, which are all of the factors that
7 the Board has ruled are relevant in whether the
8 presumption of a single-store unit should be overcome.

9 HEARING OFFICER SYKES: Okay, thank you.

10 The parties are reminded that prior to the close of
11 hearing, the Hearing Officer will solicit the parties'
12 position on election details, including the type, either
13 mail, manual, or partial manual/mail. The best days of
14 the week, times, and locations for conducting an
15 election. Any dates in which an election could not
16 occur, including the reason, where and how to conduct,
17 and kind of ballots, and the eligibility period, but
18 will not permit litigation on those issues. The Hearing
19 Officer will also inquire as to the need for foreign
20 language ballots and Notices of Election, and the
21 proposed number of observers for each party, for each
22 polling period, including the reason.

23 Please have this relevant information with respect
24 to these issues available at that time.

25 The parties have been advised that the hearing will

1 continue from day to day, as necessary, until completed,
2 unless the Regional Director concludes that
3 extraordinary circumstances warrant otherwise.

4 The parties are also advised that upon request, any
5 party is entitled to a reasonable period at the close of
6 the hearing for Oral Argument, which shall be included
7 in the transcript of the hearing. Any party desiring to
8 submit a brief to the Regional Director, shall be
9 entitled to do so within five business days after the
10 close of the hearing. Prior to the close of the
11 hearing, and for good cause, the Hearing Officer may
12 grant an extension of time to file a brief, not to
13 exceed an additional ten business days.

14 Okay, so if we can go off the record, please?

15 *[Off the record]*

16 HEARING OFFICER SYKES: Okay, we are back on the
17 record.

18 THE COURT REPORTER: We are on.

19 HEARING OFFICER SYKES: Okay, the Employer has
20 completed, and I have marked for identification as
21 Board's Exhibit 3, a Statement of Position in this
22 matter

23 **(Board's Exhibit 3, marked for identification.)**

24 HEARING OFFICER SYKES: Are there any objections to
25 receipt of this exhibit into the record?

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1 [No response]

2 HEARING OFFICER SYKES: Hearing no objection,
3 Board's Exhibit 3 is received.

4 **(Board's Exhibit 3, received into evidence.)**

5 HEARING OFFICER SYKES: Okay, in looking at Board's
6 Exhibit 3, the Employer's position is that the single-
7 store bargaining unit at Store 6328 is inappropriate,
8 and that the only appropriate unit is a multi-District -
9 - a multi-location unit within District 0635, including
10 the thirteen -- all thirteen stores within that
11 District.

12 The Employer's position is also that the Assistant
13 Store Managers should not be eligible to vote, based on
14 their supervisory status.

15 Does that accurately reflect the Employer's
16 position contained in their Position Statement?

17 MR. RAHHAL: It does.

18 HEARING OFFICER SYKES: Thank you.

19 Okay, the Petitioner has completed, and I have
20 marked for identification as Board's Exhibit 4, a
21 Responsive Statement of Position in response to the
22 Statement of Position submitted by the Employer.

23 **(Board's Exhibit 4, marked for identification.)**

24 HEARING OFFICER SYKES: Are there any objections to
25 receipt of this exhibit into the record?

1 [No response]

2 HEARING OFFICER SYKES: Hearing no objections,
3 Board's Exhibit 4 is entered into evidence.

4 **(Board's Exhibit 4, received into evidence.)**

5 HEARING OFFICER SYKES: In reviewing the Responsive
6 Statement of Petitioner, the Petitioner's position is
7 that the single-store unit is appropriate -- is
8 presumptively appropriate, and that the Assistant Store
9 Managers should be eligible to vote in that their duties
10 do not establish supervisory status under Section 2(11)
11 of the Act.

12 Does that accurately reflect the Petitioner's
13 Statement -- this Statement of Position?

14 MR. QUINTO-POZOS: Yes, it does.

15 HEARING OFFICER SYKES: Okay. Thank you.

16 Okay, now I have a question about the formulas.

17 I guess I will start with the Employer.

18 So, in your Position Statement, you indicated that
19 the Davison-Paxon Formula should be used, and so I just
20 wanted to clarify...

21 Is it the Employer's position that in this
22 particular case, based on the facts of the -- at that
23 particular store, and the stores in the District, that a
24 formula must be used?

25 MR. RAHHAL: Yes.

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1 HEARING OFFICER SYKES: Okay, and then what is the
2 Petitioner -- the Petitioner's position on, you know,
3 whether the Davison-Paxon standard formula should be
4 used if -- if directed, and whether a formula must be
5 used in these circumstances.

6 MR. QUINTO-POZOS: The Petitioner doesn't have a
7 different position from the prior cases. This is a
8 part-time workforce with variable work hours, and so --
9 and that is the -- the Region's determination then, the
10 -- the Petitioner doesn't have a contrary position for
11 that.

12 HEARING OFFICER SYKES: Okay, thank you.

13 Okay, so the Regional Director has directed that
14 the following issues will be litigated in this
15 proceeding. The only issue to be litigated is the scope
16 of the unit, and specifically, whether a single facility
17 unit at Store 6328, located at 4400 North Lamar
18 Boulevard, Austin, Texas, is appropriate, or whether the
19 smallest appropriate unit must include a District-wide
20 unit made up from all thirteen stores in District 0635.

21 The Regional Director has decided that the issue of
22 whether the Assistant Store Managers are supervisors,
23 and thus should not be included in any unit found
24 appropriate, will not be litigated in this proceeding,
25 because the issue relates to the eligibility or

1 inclusion of an insignificant portion of the unit, and
2 the Regional Director has exercised his discretion to
3 defer this issue.

4 Please be aware that because a single-facility unit
5 is presumptively appropriate, the Employer has the
6 burden of proving the appropriateness of a multi-
7 facility unit. You must present specific detailed
8 evidence in support of your position. General
9 conclusionary statements by witnesses will not be
10 sufficient.

11 So, I will allow the Employer -- well, the -- do
12 the parties want to make Opening Statements?

13 MR. RAHHAL: Just a very quick one.

14 HEARING OFFICER SYKES: I will allow the Employer
15 to start.

16 Okay, you can go ahead.

17 MR. RAHHAL: Okay, thank you.

18 OPENING STATEMENT - Employer

19 MR. RAHHAL: I mean, here we are again, and as I
20 have stated in other hearings, and more specifically in
21 the Austin I hearing, our position is clearly spelled
22 out in our Statement of Position. It is clearly spelled
23 out in our Response to the Board's order to show cause,
24 and it is clearly spelled out in 16-RC-290302, which we
25 have requested that the Board take judicial notice of.

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1 In this particular case, the Workers United now
2 seeks to represent the full-time and regular part-time
3 Baristas, Shift Supervisors, and Assistant Store
4 Managers at Starbucks Store No. 6328, which is located
5 at 4400 North Lamar Boulevard. It is also often
6 referred to as the 45th and Lamar Store.

7 The Company, as we have discussed in Austin I, on
8 the other hand, believes that the evidence in this case
9 shows that a single-store bargaining unit at 6328 is not
10 appropriate, and that the only appropriate unit is a
11 District-wide unit, with all thirteen stores in District
12 0635, and we can't look at each of these stores in a
13 vacuum, but rather have to look at them as a District,
14 and I think that the Union's two witnesses in the Austin
15 I hearing make that clearly apparent.

16 We have one Union witness who testified on the
17 record that she worked at every single store within the
18 District, except for one. She not only worked at every
19 single store in the District, except for one, on one
20 occasion, but on multiple occasions, some for days at a
21 time, some for weeks at a time, some for months at a
22 time. You cannot disregard that evidence when looking
23 at a District-wide unit.

24 In addition, the Union's other witness testified
25 that she met with other Baristas at other stores. She

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1 trained people at her store from other stores. Baristas
2 or partners from other stores regularly worked at her
3 store.

4 Again, you cannot look at these stores in a vacuum,
5 but rather how did they function together as a unit, and
6 I think the evidence is apparently clear that this
7 District operates as one single unit, and therefore, for
8 the Union to pick up one store or another, is clearly
9 not appropriate. It is not workable from an
10 administrative standpoint, it is not workable from a
11 human resources standpoint, and it is not workable from
12 a morale standpoint.

13 Imagine these Partners working with other Partners
14 from other stores, with possibly different terms and
15 conditions of employment, possibly different wage rates,
16 possibly different benefits, possibly different
17 restrictions on their ability to work at other stores,
18 or have partners at other stores work at their stores.
19 It doesn't work. It is not appropriate.

20 As we stated time and time again, the only
21 appropriate unit in this case is a unit that consists of
22 all thirteen stores in the District.

23 Thank you.

24 HEARING OFFICER SYKES: Okay, and does the
25 Petitioner want to give a Position Statement?

1 MR. QUINTO-POZOS: Yeah.

2 OPENING STATEMENT - Petitioner

3 MR. QUINTO-POZOS: If we -- here we are again on --
4 this is one of probably now dozens of cases that have
5 been heard by different Regions throughout the Country,
6 and the standard is the same. There is a clear
7 presumption under long-standing Board law that a single-
8 store unit is appropriate. In every case, and as is
9 true in this case, as well, the Employer has a very
10 heavy burden to overcome that presumption. That has not
11 been done in any of the cases that have been heard by
12 multiple Regional Directors all over the country, and
13 has been reviewed by the Board multiple times, and it is
14 the Petitioner's position that that presumption is not
15 overcome either in this case, or in the prior Austin
16 case, Austin I.

17 The Union believes that the evidence in this
18 hearing will show that the conditions of this particular
19 store differ from the conditions at Austin I, and they
20 differ from the conditions at stores elsewhere in the
21 District, as well as in -- outside of the District.

22 Under these conditions, the results should be the
23 same, as prior cases that have already been decided by
24 the Regional Directors and by the Board.

25 Now, Counsel for the Employer took the situation,

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1 employees at Austin I, without mentioning the fact that
2 the evidence was clear in that case that the one
3 employee who had worked at multiple stores is an
4 exception, and that is the testimony by both herself and
5 the other witness. Likewise, he ignored the fact that
6 the other employee made it -- made that point clear with
7 her own experience. She has not worked at other stores
8 very -- you know, in fact, only very rarely. And, in
9 fact, I -- the Union's position is that the -- the
10 actual aggregate data, and the Union's excerpts in that
11 case, and in this case, will show that employee
12 interchange is not regular. That is the fact that the
13 NLRB -- that the Regional Directors and the Board have
14 considered as relevant.

15 In sum, the Union's position is that an election
16 should be ordered for this store, as a single-unit, as
17 an appropriate unit. The circumstances in this case are
18 not any different from, and should compel the same
19 result as in prior cases. The presumption should
20 overcome.

21 HEARING OFFICER SYKES: Thank you.

22 [Long pause]

23 HEARING OFFICER SYKES: Okay. At -- based on off-
24 the-record conversations, it is my understanding that
25 the Employer will not be initially presenting any live

1 witnesses, but will, however, be referencing Austin I,
2 which is 16-RC-292111 in their brief, as far as -- as --
3 I think it was Ms. Nixon who testified, so I believe you
4 will be referencing her testimony, but they will be
5 presenting various exhibits with the data of interchange
6 and exhibits related to their expert and the experts'
7 various interpretations through charts and graphs, but I
8 will -- I will let the Employer speak for themselves.
9 So, is -- is that correct, that you will not be
10 initially presenting a -- a witness?

11 MR. RAHHAL: That's correct. In our case-in-chief,
12 we will be relying on prior testimony that we have asked
13 the Board to take judicial notice of. We will also be
14 relying on some new evidence which we will ask into this
15 case.

16 We will certainly reserve our right to call any
17 rebuttal witnesses that we deem necessary.

18 HEARING OFFICER SYKES: All right. And when you
19 say new evidence, are you -- are you referring to the
20 data, or are you referring to something else?

21 MR. RAHHAL: Correct. The --

22 HEARING OFFICER SYKES: Okay.

23 MR. RAHHAL: -- underlying data and the experts'
24 analysis, which are all identified in the stipulation
25 which the parties have both signed.

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1 HEARING OFFICER SYKES: Okay.

2 So, yeah, I guess at this time, does the Employer
3 want to start offering their exhibits that they have --
4 that they want entered in?

5 MR. RAHHAL: Sure.

6 At this time, we would like to move to have
7 admitted into evidence, Employer's Exhibit 1(a) through
8 1(f), which is the interchange data which has been
9 provided -- which has been previously provided to the
10 parties.

11 **(Employer's Exhibit 1(a) through 1(f), inclusive, marked**
12 **for identification.)**

13 HEARING OFFICER SYKES: Any objection to Employer's
14 Exhibit 1(a) through 1(f)?

15 MR. QUINTO-POZOS: No objection.

16 HEARING OFFICER SYKES: Okay, hearing no objection,
17 Employer's Exhibit 1(a) through 1(f) is admitted into
18 the record.

19 **(Employer's Exhibit 1(a) through 1(f), inclusive,**
20 **received into evidence.)**

21 MR. RAHHAL: The Employer would also move to have
22 admitted Employer's Exhibit 2, which is the CV of the
23 expert witness, who is Dr. Abby Turner.

24 **(Employer's Exhibit 2, marked for identification.)**

25 HEARING OFFICER SYKES: Any objections to

1 Employer's Exhibit 2?

2 MR. QUINTO-POZOS: No objection.

3 HEARING OFFICER SYKES: Hearing no objections,

4 Employer's Exhibit 2 is entered into evidence.

5 **(Employer's Exhibit 2, received into evidence.)**

6 MR. RAHHAL: And then, finally, the Employer would

7 move to have admitted Employer's Exhibit 3, which are

8 the graphic depictions and reports of the expert, Dr.

9 Abby Turner.

10 **(Employer's Exhibit 3, marked for identification.)**

11 HEARING OFFICER SYKES: Any objections to

12 Employer's Exhibit 3?

13 MR. QUINTO-POZOS: No objections.

14 HEARING OFFICER SYKES: Hearing no objections,

15 Employer's Exhibit 3 is entered into evidence.

16 **(Employer's Exhibit 3, received into evidence.)**

17 MR. RAHHAL: Thank you.

18 HEARING OFFICER SYKES: So, at this time, does the

19 Employer rest their case with the -- reserving the right

20 to recall a witness, if necessary?

21 MR. RAHHAL: Absolutely.

22 HEARING OFFICER SYKES: Okay, so the Petitioner, if

23 they are ready, they -- they can start with their first

24 witness --

25 MR. QUINTO-POZOS: Yes.

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1 The Petitioner would like to call Dani Glover as
2 the Petitioner's first witness.

3 HEARING OFFICER SYKES: Thank you.

4 THE WITNESS: *[Inaudible - muted]*

5 MR. QUINTO-POZOS: Okay, Dani, if you could unmute,
6 please?

7 HEARING OFFICER SYKES: We can go off the record
8 while we sort this out.

9 [Off the record]

10 HEARING OFFICER SYKES: Okay.

11 (Whereupon,

12 DANI GLOVER

13 having been sworn/affirmed, was called as a witness
14 herein, and was examined and testified via video-
15 conference, as follows:)

16 HEARING OFFICER SYKES: Thank you.

17 Okay, you can start your examination

18 MR. QUINTO-POZOS: Thank you.

19 DIRECT EXAMINATION

20 Q. BY MR. QUINTO-POZOS: Would you please state and
21 spell your name for the record?

22 A. It is Dani Glover; D-a-n-i, G-l-o-v-e-r.

23 Q. And how are you employed?

24 A. I am a Shift Supervisor for Starbucks.

25 Q. How long have you worked at Starbucks?

- 1 A. Fifteen years.
- 2 Q. And what is your current home store?
- 3 A. 45th and Lamar.
- 4 Q. Have you had other home stores before?
- 5 A. I have had a few, yes.
- 6 Q. Okay. How long have you been at your current home
7 store?
- 8 A. About six years, I think.
- 9 Q. And before that, where did you -- what was your
10 home store?
- 11 A. Before that, I worked at Far West, and before that,
12 it was the Piedmont Store in Portland, Oregon, and
13 before that, it was North Side Drive in Mississippi.
- 14 Q. How long did you work at Far West?
- 15 A. I am not sure. At least three or four years.
- 16 Q. Is the Far West store in the same District as the
17 45th and Lamar Store?
- 18 A. It was at the time that I worked there.
- 19 Q. And do you know if it is now?
- 20 A. No, it is not.
- 21 Q. Okay. Have you held other titles aside from Shift
22 Supervisor?
- 23 A. I was a Barista for a brief time, yes.
- 24 Q. When was that?
- 25 A. At the beginning of my career with Starbucks, and

1 then I stepped down for maybe a year or two in about
2 2012, yeah.

3 Q. All right, and then, did you become a Shift
4 Supervisor again?

5 A. Yes.

6 Q. Okay, and when you became a Shift Supervisor the
7 second time, how did that process work?

8 A. My manager basically asked me to take on the role.
9 She knew that I could do it, and she needed a
10 supervisor, so it was kind of a last minute, "Please
11 help us out" type of thing.

12 Q. All right, and when you say your manager, who was
13 that?

14 A. Her name was Jen.

15 Q. And she was --

16 A. At Far West.

17 Q. And she was the Store Manager?

18 A. Yes.

19 Q. You said at Far West?

20 A. Yes.

21 Q. And when you stepped back up to Shift Supervisor,
22 did you have any discussions with the District Manager
23 about that?

24 A. No.

25 Q. Okay. Did you have to interview with the District

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1 Manager?

2 A. No.

3 Q. Did Jen, the Store Manager, mention a role by the
4 District Manager in that process?

5 A. No.

6 Q. Do you know who hires Baristas and Supervisors at
7 45th?

8 MR. RAHHAL: Objection to the extent that it calls
9 for speculation.

10 HEARING OFFICER SYKES: I -- I guess I would
11 overrule. I mean, Dani can answer, based on her
12 experience there for six years, what her -- what her
13 understanding is of who hires and how the hiring process
14 works.

15 Q. BY MR. QUINTO-POZOS: Go ahead, Danny.

16 Do you remember the question?

17 A. Yeah. My manager, Amanda, does the hiring for our
18 location.

19 Q. And how do you know that?

20 A. I have seen her interviewing and accepting hires.
21 I have talked to her about it.

22 Q. And you said she -- she does the interviewing?

23 A. *[Indiscernible]*

24 Q. I'm sorry, what was that?

25 A. Yes.

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1 Q. Okay, thank you.

2 And have you ever seen the District Manager do job
3 interviews at 45th?

4 A. No.

5 Q. While you worked at 45th, have you ever changed
6 your availability?

7 A. Yes.

8 Q. And how do you do that?

9 A. Through the -- we have an app that we use, so you
10 can request to change your availability through the --
11 through having a conversation with Amanda to kind of --
12 make sure it is agreeable.

13 Q. And Amanda, again, is who?

14 A. The Manager.

15 Q. Okay. Have you ever dealt with the District
16 Manager about changing your availability?

17 A. No.

18 Q. Do you have -- do you have an understanding as to
19 who makes the schedules at 45th?

20 A. Yes.

21 Q. And what is that understanding?

22 A. My understanding is that my Manager or Assistant
23 Manager makes the schedule through a scheduling program.

24 Q. And how do you know that?

25 A. I have seen them do it.

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1 Q. Have they talked about it?

2 A. Yes.

3 Q. And are you aware of any role by the District
4 Manager in making schedules?

5 A. Not -- no. No.

6 Q. Okay, and do you know how Partners can swap shifts
7 at 45th?

8 A. Yeah, there is a few different ways.

9 We have a GroupMe app, that we use to communicate
10 through. There is also the Starbucks app. You can post
11 shifts to be traded and picked up, as well as just
12 directly calling or texting Partners.

13 Q. Okay.

14 A. Yeah, everything has to be finalized through our
15 Manager.

16 Q. And you talked about GroupMe. Who is in -- who is
17 in the GroupMe app, for purposes of swapping shifts?

18 A. Partners, Managers, Assistant Managers,
19 Supervisors; anyone that wants to be a part of it can
20 be, but it is not mandatory.

21 Q. And are there Partners from other stores in that
22 GroupMe app?

23 A. No.

24 Q. And you said that on the app, people can post their
25 shifts to be traded and picked up; is that right?

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- 1 A. Yes.
- 2 Q. All right, and have you done that?
- 3 A. I have.
- 4 Q. Okay, and when you have done that, is that -- can
- 5 the swaps happen with employees at other stores?
- 6 A. Not that I have seen.
- 7 Q. And do you -- you also made reference to calling
- 8 someone directly or texting them directly; do you recall
- 9 that?
- 10 A. Uh-huh, yes.
- 11 Q. And do those texts or calls happen with people in
- 12 other stores?
- 13 A. Not usually.
- 14 Q. All right, and on the app, can you see shifts up
- 15 for swapping?
- 16 A. Yes.
- 17 Q. And -- and I'm sorry if this is something you have
- 18 already answered, but can you see shifts from other
- 19 stores?
- 20 A. I haven't seen any, no.
- 21 Q. And let's talk about the time that you have worked
- 22 at 45th.
- 23 During that time, have -- how often have you worked
- 24 at other stores?
- 25 A. I have -- I haven't. Well, I worked at the North -

1 - Northland location while my store was closed during
2 the pandemic.

3 Q. How long did you do that?

4 A. I think I worked two shifts.

5 Q. How long was the store closed -- the 45th store
6 closed during the pandemic?

7 A. Three or four months.

8 Q. So in three or four months, you picked up two
9 shifts at another store?

10 A. Yes.

11 Q. Okay, and you said at the Northland location; is
12 that right?

13 A. Yes.

14 Q. And what District is that location in?

15 A. At the time, it was in the same District as me. I
16 am not sure what District it is, currently.

17 Q. Okay.

18 A. It is not in the same District anymore.

19 Q. Okay, it -- it is not in the same District, but you
20 don't know which one.

21 A. Right.

22 Q. Have you been asked to work at other stores, aside
23 from that -- those two shifts that you have referenced?

24 A. Yes.

25 Q. And -- and that means that -- does that mean that

1 you declined?

2 A. Yeah, I have declined.

3 Q. Okay, and why? Why have you declined?

4 A. It was an inconvenience. I have -- I don't have
5 transportation, so the -- yeah, it is just inconvenient
6 for me to work at other stores.

7 Q. And at 45th, how common is it for you to work with
8 people from other stores?

9 A. It doesn't happen very often. I -- I'd say, at the
10 most, maybe once a month, once or twice a month.

11 Q. Okay. Now, at 45th, who carries out discipline of
12 Baristas and Shift Supervisors, if you know?

13 A. Our Manager.

14 Q. And how do you know that?

15 A. I have seen it.

16 Q. Have you ever been disciplined?

17 A. Yes.

18 Q. And who had disciplined you?

19 A. My Manager.

20 Q. Have you ever been disciplined by the District
21 Manager?

22 A. No.

23 Q. All right. Have -- has the District Manager ever
24 spoken to you in the -- in the process of you receiving
25 -- ever receiving discipline or being investigated for

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1 discipline?

2 A. No.

3 Q. And at 45th, if there is a conflict between
4 Baristas -- or between a Barista and a Shift Supervisor,
5 who handles that?

6 A. We handle it amongst ourselves, and if we aren't
7 able to, our Manager will have a three-way conversation
8 with us.

9 Q. And have you ever been aware of the District
10 Manager being involved in a conflict situation at 45th?

11 A. Only when the conflict involves my Manager.

12 Q. All right, and about how many times has that
13 occurred, that the District Manager is involved in a
14 conflict situation?

15 A. Just once.

16 Q. Have you known people to be terminated at the 45th
17 store?

18 A. Yes.

19 Q. And who terminates -- do you know who terminates
20 people at 45th?

21 A. My Manager.

22 Q. Have you ever known the District Manager to be
23 involved in terminations at 45th?

24 A. Not directly. Maybe in an advisory role, but as
25 far as I know, my Manager has the final say.

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1 Q. Now, at 45th, there is something called a Play
2 Builder Tool; is that right?

3 A. Yes.

4 Q. Can you briefly describe what that is?

5 A. Yeah. It is a tool that is used as a guide to help
6 the play caller, I guess, kind of build the deployment
7 for that day. Yeah.

8 Q. Okay, and what is a "play caller?"

9 A. It is usually the Supervisor or whoever is in
10 charge of the floor that day. It is kind of the
11 "director," I guess.

12 Q. Okay. And so you have been the "play caller"
13 before, right?

14 A. Yes.

15 Q. And you said that it helps the -- it helps the
16 person, the play caller, to build the deployment for the
17 day. As the play caller, do you have the capability of
18 departing from what the tool says?

19 A. Yes.

20 Q. And how do you do that?

21 A. We flex the play, as needed. It is kind of based
22 off of experience, how you would do that.

23 Q. Okay. And can you give, just a brief example or
24 two, of when you might do that?

25 A. Yes. The play calls for, say, an Oven Partner, but

1 we just don't happen to be very on food that day,
2 however, we really need someone to hand off, I might
3 select the Oven Partner to actually go hand off instead,
4 because that is where the most help is needed.

5 Q. Okay. And when you flex, do you give the tool some
6 kind of feedback, or do you need to get permission from
7 the tool or from someone to flex?

8 A. There is -- there is a way to input that. It is
9 not always used because of time usually.

10 Q. Have you been in trouble for not using that?

11 A. No.

12 Q. All right. Okay, so you work at this store in
13 Austin, and you have worked at the Northland store in
14 Austin, and you worked at the Far West store in Austin;
15 is that correct?

16 A. Yes.

17 Q. And do you have an opinion as to how the work
18 environment is the same or different at the different
19 stores?

20 A. Yeah. I think every store has its own kind of
21 personality, I would say. You know, I think my store
22 has a lot of students with varying different schedules
23 that are hard to work around.

24 We have quite a few incidences that we have to deal
25 with, as far as disruptive customers and things of that

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1 nature.

2 You know, we also have a -- a few senior Partners,
3 and that is a little different than a store that maybe
4 has a lot of newer people.

5 Q. And, for example, the -- when you say, "We have lot
6 of students," does that mean among the Partners?

7 A. Yes.

8 Q. And is that -- how does that compare to Far West,
9 for example?

10 A. Well, when I went to far west, there were a -- a
11 lot of -- I guess a lot of -- a lot more people that, I
12 guess, relied on Starbucks as their number one source of
13 income, and they weren't in school, so -- yeah, it was
14 just a different -- as far as scheduling goes, it was a
15 lot -- I don't know, a lot more availability to work
16 around. It was just an easier schedule to make, from
17 what I understand, whereas, at 45th, my Managers find it
18 really hard to make schedules, based on everyone's
19 availability, and making sure that everyone gets the
20 hours that they need.

21 Q. And you talked about a lot of incidents at the --
22 at 45th; is that what I understood?

23 A. Yes.

24 Q. And how did that compare to Far West?

25 A. I honestly can't recall any incident -- incidences,

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1 really happening at Far West, at least not of the same
2 nature -- yeah, it was a really laid back, easy store to
3 work at.

4 Q. Okay.

5 MR. QUINTO-POZOS: I will pass the witness.

6 HEARING OFFICER SYKES: Okay, does the Employer
7 have any cross examination?

8 MR. RAHHAL: Yeah, just a couple of follow-up
9 questions.

10 HEARING OFFICER SYKES: Okay.

11 CROSS EXAMINATION

12 Q. BY MR. RAHHAL: Do you mind if I refer to you as
13 Dani?

14 A. That's fine.

15 Q. Okay, and you can refer to me as Steve.

16 I am sure you already have recognized, based on
17 discussions we have previously had, I am one of the
18 attorneys representing Starbucks today. You understand
19 that, correct?

20 A. Yes.

21 Q. Okay, perfect.

22 And just so you know, I love Starbucks. I go there
23 a lot, so...

24 I am interested -- you say you have worked at
25 Starbucks for about fifteen years; is that correct?

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1 A. Yes.

2 Q. And this might be somewhat repetitive, but I didn't
3 hear all of that.

4 Can you tell me the first store you worked at with
5 Starbucks?

6 A. Yes. The first store I worked at was -- let me get
7 this straight. It was County Line Road in Mississippi.
8 I am no longer there.

9 Q. Okay, and how long did you work at the one in
10 Mississippi?

11 A. I worked at that one for a couple of years. It
12 closed down in like 2009 when the economy was crashing,
13 and then I worked at Northside Drive in Mississippi,
14 until about 2011, I want to say.

15 Q. And from there you went to?

16 A. Portland, Oregon. I worked at a store called
17 Piedmont.

18 Q. And you worked there for about how long?

19 A. About one year.

20 Q. And from there?

21 A. Then I went to Far West.

22 Q. And when you say Far West, is -- that is in Austin;
23 correct?

24 A. Yes.

25 Q. All right, and is that one of the stores in

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1 District 635?

2 A. I am not sure of the District numbers.

3 Q. Do you have an address for Far West?

4 A. It's -- it is on Far West Boulevard and Hart Lane,
5 H-a-r-t.

6 Q. Okay, and how long did you work at Far West?

7 A. I am not sure of the exact time, but at least three
8 or four years.

9 Q. Okay. Well, you are doing better than I can. I
10 can't remember what I ate yesterday, so...

11 And from Far West, you went to?

12 A. 45th and Lamar.

13 Q. And that is the store you are currently at?

14 A. Yes.

15 Q. Okay, and you don't recall if Far West was in
16 District 635 at the time you worked there?

17 A. Which District is 635?

18 Q. It is the same District that 45th and Lamar is
19 currently at.

20 A. No. We were -- 45th and Lamar and Far West were in
21 the same District prior to the pandemic. After the
22 pandemic, our Districts changed.

23 Q. Okay. But at the time you transferred from Far
24 West to 45th and Lamar, they were in the same District?

25 A. Yes.

1 Q. And do you recall who the District Manager was for
2 that District, at the time?

3 A. Yeah, her name was Courtney Knight.

4 Q. Courtney Knight, okay.

5 And do you know what, if any, role Courtney had, or
6 what involvement she had, in your transfer from Far West
7 to 45th and Lamar?

8 A. As far as I know, she just signed the paper, the
9 transfer paper, but I didn't have any direct involvement
10 with her.

11 Q. So you are not aware what, if any, involvement the
12 District Manager had in transferring you from one store
13 in that District, to another store in that District; is
14 that correct?

15 A. Correct.

16 Q. Okay. And do you recall the reason that you did
17 transfer from Far West to 45th and Lamar?

18 A. Yeah. I -- my Manager at the time, Jen, left, and
19 we were getting a new Manager, and I had actually --
20 Amanda, my current Manager, was my Assistant Manager, at
21 Far West, so I kind of had a relationship with her
22 already, and 45th was a lot closer to my house, so --
23 yeah, I just texted her and asked if she needed a
24 Supervisor, because it was a more convenient location
25 for me to work at.

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- 1 Q. Okay, let me get this straight.
- 2 So, the Manager at Far West, her name was what?
- 3 A. Jennifer.
- 4 Q. Okay, and she was leaving; is that correct?
- 5 A. Yes. She was transferring to a different store.
- 6 Q. Okay, and do you know what store she was
- 7 transferring to?
- 8 A. I think it was a store in Manor.
- 9 Q. Okay. And Amanda was the Assistant Store Manager
- 10 at Far West?
- 11 A. For a time, yes.
- 12 Q. Okay, and at that time, Far West was in the same
- 13 District as 45th and Lamar; correct?
- 14 A. Yes.
- 15 Q. And that Assistant Store Manager, Amanda,
- 16 transferred over to 45th and Lamar; is that correct?
- 17 A. Yes. Yes.
- 18 Q. Okay, and that was one of the reasons why you
- 19 wanted to transfer from Far West to 45th and Lamar; is
- 20 that correct?
- 21 A. Yes.
- 22 Q. Okay. And you have been at 45th and Lamar ever
- 23 since; is that correct?
- 24 A. Yes.
- 25 Q. And again, remind me...

1 How long have you been at 45th and Lamar?

2 A. Like five or six years.

3 Q. Five or six years, okay. Okey-doke.

4 [Long pause]

5 Q. And again, you don't know what, if any, involvement
6 the District Manager had in approving your transfer from
7 Far West to 45th and Lamar; correct?

8 A. Correct.

9 Q. Okay. Now, I know your current District Manager is
10 Susan Nixon.

11 A. Yes.

12 Q. Is that correct?

13 A. Yes.

14 Q. And do you know how long Susan Nixon has been the
15 current District Manager of the District?

16 A. I am not sure.

17 Q. Okay. Have you ever met with Susan Nixon?

18 A. Yes.

19 Q. How many times have you met with Susan Nixon?

20 A. Quite a few actually.

21 Q. When you say "quite a few," fewer than five?

22 A. I think that I have had -- yeah, at least five
23 meetings with her. I -- you know, she comes and -

24 O. Okay.

25 A. At least, at the most -- I would say, at the most,

1 once a week she will stop by.

2 Q. Okay. So, let's get this down.

3 So, it is your testimony that Susan Nixon, the
4 District Manager for the District, comes to your store
5 at least once a week; is that correct?

6 A. Uh-huh. Yes.

7 Q. Okay, thank you.

8 And that you have actually had a meeting with Susan
9 Nixon on at least five different occasions; is that
10 correct?

11 A. Yes.

12 Q. Okay. Let's go through those.

13 The first occasion that you can recall meeting with
14 Susan Nixon, do you know when that meeting would have
15 occurred?

16 A. This year, sometime, we had a Safety and Security
17 meeting with the Supervisors from different stores.

18 Q. So then, were these Shift Supervisors?

19 A. Yes. It was a training meeting.

20 Q. Okay, so Susan Nixon, the District Manager for the
21 District, conducted a training meeting at your store; is
22 that correct?

23 A. It was at a different store. I can't remember the
24 exact store, but, yeah.

25 Q. Okay, was it a -- at a store within District 635?

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1 A. Yes.

2 Q. Okay, and Susan Nixon, the District Manager,
3 conducted that session?

4 A. Yes.

5 Q. Okay, and you say that you attended that session?

6 A. Yes.

7 Q. And did Partners from other stores within the
8 District also attend that session?

9 A. Yes.

10 Q. Approximately how many different Partners attended
11 that Safety meeting or Security meeting that Susan Nixon
12 held?

13 A. I want to say there was maybe six of us.

14 Q. Okay, and the six of you were from different stores
15 within District 635; is that correct?

16 A. I believe it was a few Supervisors from my store,
17 and then a few Supervisors from the other store, but I
18 think she held meetings -- other separate meetings with
19 other supervisors, not at the same time.

20 Q. Okay. So she held different Security or Safety-
21 Security meetings with different Supervisors from
22 different stores, within 635; is that correct?

23 A. Yes.

24 Q. But you attended one of the meetings at another
25 store within that District; is that correct?

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1 A. Yes.

2 Q. Okay, and that was sometime during 2022; is that
3 correct?

4 A. Yes.

5 Q. Okay, so that was your first meeting with Susan
6 Nixon that you recall.

7 When was the second meeting with Susan Nixon?

8 A. We had a couple of calls with Susan, regarding an
9 issue with my Manager that Susan was helping us with.

10 Q. Do you recall when these calls took place?

11 A. It was within the last three months.

12 Sorry, I have a bad memory.

13 Q. Your memory is way better than mine, so I will give
14 you credit.

15 You say "we had a couple of calls with Susan -- who
16 was the we that we are talking about?

17 A. The shift team at my store.

18 Q. And approximately how many calls did that team have
19 with Susan?

20 A. Let's see. We had a -- one initial call to kind of
21 go over whatever issues we were having, then we had a
22 meeting with our Manager, and pushed the team to kind of
23 discuss everything.

24 Q. Was Susan involved in that meeting?

25 A. Yes.

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1 Q. Okay, keep going.

2 A. And then, I had a follow-up meeting with Susan
3 after that.

4 Q. Okay. Okay, let's first talk about, what was the
5 issue that you were calling your District Manager about?

6 A. It was some behavior issues that had been brought
7 up about my Manager. People didn't feel like they were
8 being treated fairly, or -- well, yeah. It was just
9 basically a kind of --

10 Q. The issues about the treatment that you all were
11 getting from your Store Manager; is that correct?

12 A. Yes.

13 Q. Okay, and so you initiated a call to the District
14 Manager so you could discuss these issues that you and
15 others were having with your Store Manager; is that
16 correct?

17 A. Correct.

18 Q. Okay. And I think, after that initial call, did
19 Susan, the District Manager, set up a meeting with you
20 and others and the Store Manager?

21 A. Yes.

22 Q. Okay, and where did that meeting get conducted?

23 A. It was through a video. I think it was a Zoom
24 meeting or a GroupMe, or something like that.

25 Q. Okay, and approximately -- so Susan would have been

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1 on that meeting; is that correct?

2 A. Yes.

3 Q. The Store Manager was on that meeting; is that
4 correct?

5 A. Yes.

6 Q. And who was the Store Manager?

7 A. Amanda.

8 Q. Okay. And other Shift Supervisors were also on
9 that meeting?

10 A. Yes.

11 Q. Okay. And then, you said "after that meeting," you
12 had a follow-up call with Susan Nixon; is that correct?

13 A. Yes.

14 Q. Okay, and who initiated that call?

15 A. Susan.

16 Q. And what was -- what were the discussions during
17 that call?

18 A. We were just discussing whether or not the process
19 was helpful, you know, what my feelings were after the -
20 - it was kind of just like a check-up, like -- like a
21 check-in.

22 Q. Okay, and do you recall what your feelings were
23 that you expressed to Susan during that follow-up call?

24 A. Yeah, I thought it was really super helpful. I
25 was, you know, glad to have Susan there, kind of

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1 mediating for us.

2 Q. Okay. So, we talked about the Safety-Security
3 meeting that you went to at another store within the
4 District. We have now talked about your interactions
5 with your District Manager regarding issues that you had
6 with your Store Manager.

7 Were there other times that you have met with
8 Susan, because I believe you talked about five different
9 times that you --

10 A. Well, yeah, and then we had a -- a full-store
11 meeting recently, just to discuss all of our benefits,
12 our benefit packages, to make sure everyone was on the
13 same page about what benefits Starbucks offered.

14 Q. All right, and did Susan conduct that meeting at
15 your store?

16 A. She wasn't conducting it, but she was there.

17 Q. Okay.

18 A. And it was at my store, yeah.

19 Q. Okay. So that is the third interaction of the five
20 that you recall having with Susan.

21 What was the fourth interaction that you had with
22 Susan?

23 A. I think those were all of the interactions that I
24 can remember.

25 Q. Okay. Do you recall calling Susan about any other

1 incidents that occurred at the store?

2 A. I have had to call her when I couldn't reach my
3 Manager, for issues, such as like meetings, and mobile
4 orders to be turned off, because we were understaffed or
5 something like that, yes.

6 Q. Approximately how often would you call Susan when
7 you couldn't contact your Store Manager?

8 A. I think I have called her twice.

9 Q. Okay, and did she assist you with the issues that
10 you were having at the time?

11 A. Yes.

12 Q. Okay. Any other ties that you can recall
13 contacting your District Manager about issues occurring
14 at your store?

15 A. No.

16 Q. Okay, do you recall meeting with Susan at any other
17 stores within the District, other than the times that
18 you have already testified about?

19 A. No.

20 Q. Now, do you know what involvement Susan has in
21 creating store schedules?

22 A. I am not sure what her involvement is.

23 Q. Okay. Do you know what involvement Susan has in
24 hiring Partners at the different stores within the
25 District?

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1 A. I believe she hires the Managers and Assistant
2 Managers.

3 Q. Are you aware of her involvement in the hiring of
4 Partners at the different stores in her District?

5 A. No.

6 Q. Okay, so does that mean you don't know one way or
7 the other; is that correct?

8 A. Correct.

9 Q. Okay. Are you aware of any involvement that Susan
10 has in the promotion of Partners within the stores,
11 within her District?

12 A. No, I am not sure.

13 Q. So that means you don't know one way or the other;
14 is that correct?

15 A. Correct.

16 Q. Okay.

17 *[Long pause]*

18 Q. Do you know what involvement Susan, the District
19 Manager, has in the discipline of Partners within her
20 District?

21 A. I am -- no, I am not sure.

22 Q. So you don't know one way or the other; is that
23 correct?

24 A. Yeah.

25 Q. Okay.

1 A. Correct.

2 Q. And would you know what involvement the District
3 Manager has in the termination of Partners within your
4 District?

5 A. No.

6 Q. Does that mean you don't know one way or another;
7 is that correct?

8 A. Correct.

9 Q. Okay. Now, I believe you talked about your store
10 actually closing for some period of time during COVID;
11 is that correct?

12 A. Correct.

13 Q. Do you know what, if any, involvement, Susan, the
14 District Manager had in making the decision to close
15 your store, or any other store within the District?

16 A. I am not sure whose decision that was.

17 Q. Okay. Now, you said your store closed for
18 approximately three to four months; is that correct?

19 A. Yes.

20 Q. And correct me if I am wrong, but during that time
21 you only worked two shifts at another store?

22 A. Correct.

23 Q. So you didn't work at Starbucks the rest of that
24 two -- that three to four-month period, except for two
25 shifts; is that correct?

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1 A. Correct.

2 Q. And was that for just one shift each, or were the
3 shifts more than one day, or a week at a time?

4 A. I worked two shifts; just two days, one right after
5 the other.

6 Q. Okay. Did you ever request to work more shifts at
7 other stores within the District, while your store was
8 closed?

9 A. No. It was inconvenient.

10 Q. All right. So, during the time period while
11 working at the -- is it the 45th Store; is that what we
12 call it? Store -- the 45th Store?

13 A. Yeah.

14 Q. You have only worked at other stores in the
15 District just on two occasions; is that correct?

16 A. Correct.

17 Q. Okay. Have you ever seen Partners from other
18 stores in the District train at Store 45?

19 A. Not training, no.

20 Q. Okay.

21 A. We have had --

22 Q. Go ahead.

23 A. We have had Partners from our store train at other
24 stores.

25 Q. Okay. Approximately how many Partners at Store 45

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1 do you have first-hand knowledge of, training at other
2 stores in the District?

3 A. I can only think of one right now.

4 Q. Could it be more, and you just don't recall?

5 A. Yes.

6 Q. Okay. Have you ever see Partners at other stores
7 work at Store 45?

8 A. Yes.

9 Q. Okay. Approximately how many times have you seen
10 Partners from other stores work at Store 45?

11 A. At least once a month.

12 Q. Okay.

13 A. Yeah, I wouldn't say it is very often, but it is
14 not unheard of, no.

15 Q. But at a minimum, at least once a month?

16 A. Yes.

17 Q. All right, and has there been times where more than
18 one Partner from other stores within the District, work
19 at Store 45?

20 A. Yes.

21 Q. So there have been times when two people from other
22 stores are working at Store 45 simultaneously; is that
23 correct?

24 A. Yes, and then sometimes, if, say, our store needed
25 to have a store meeting, they have brought in a -- a

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1 team from another store to work or close our store.

2 Q. Okay. Let me go back...

3 Have you ever had situations where you recall at
4 least three Partners from other stores in the District
5 working at Store 45 at the same time?

6 A. Yes.

7 Q. Okay. Do you recall times when four Partners from
8 other stores within the District have worked at Store 45
9 at the same time?

10 A. No.

11 Q. Okay. Now you said there have been some occasions
12 where you all have had meetings at Store 45, so other
13 Partners came in and worked; is that correct?

14 A. Correct.

15 Q. Approximately how many times do you recall there
16 being meetings at Store 45 when Partners from other
17 stores within the District came in to help out?

18 A. Only twice, I believe.

19 Q. Okay.

20 *[Long pause]*

21 Q. And are you aware of Partners at Store 45 working
22 at other stores within the District?

23 A. Yes. Yes.

24 Q. Okay. Approximately how many Partners do you know
25 that are based or homed at Store 45, work at other

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1 stores within the District?

2 A. I wouldn't have an exact number, but -- yeah, it
3 does. It happens, yes.

4 Q. Would you say it happens more than once a week?

5 A. Yes.

6 Q. More than twice a week?

7 A. Sometimes.

8 Q. Are you aware of any Partners that are homed or
9 based at Store 45, who regularly work at other stores
10 within the District?

11 A. No.

12 Q. Okay.

13 A. I think it is -- It is never something that people
14 want to do. I think it is done out of necessity for
15 need for hours, and that kind of thing.

16 Q. Because I have heard testimony in other cases where
17 there are some Baristas who are working at other --

18 A. Yeah, I know.

19 Q. Are you aware of any Baristas at your store, like
20 some of the other ones I have heard, that say they
21 actually like to work at other stores?

22 A. No.

23 Q. Okay.

24 A. I think -- I think given the option, most people
25 that I work with would just want to work at my store.

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1 MR. RAHHAL: I have nothing further at this time.

2 HEARING OFFICER SYKES: Do you have any redirect?

3 MR. QUINTO-POZOS: I don't.

4 HEARING OFFICER SYKES: Okay.

5 I think I had just two or three questions, just so
6 I can get the record straight.

7 EXAMINATION BY THE COURT

8 HEARING OFFICER SYKES: The Store Manager, her name
9 is Amanda. Do you know the last name?

10 THE WITNESS: It is Amanda March. I am not sure --
11 she has gotten married, and I am not sure if she has
12 legally changed her name or not. So it would either be
13 Amanda Ramsdale or Amanda March.

14 HEARING OFFICER SYKES: Okay, and has Amanda been
15 the Store Manager all six years that you have been at
16 45th and Lamar?

17 THE WITNESS: Yes.

18 HEARING OFFICER SYKES: Okay, and then, you had
19 testified about -- you declined offers or -- I guess
20 offers to work at other stores. Did you face any
21 discipline or any repercussions for declining to work at
22 the other stores?

23 THE WITNESS: No.

24 HEARING OFFICER SYKES: Okay. And then, do you
25 know how long Susan Nixon has been the District Manager?

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1 THE WITNESS: I am not sure.

2 HEARING OFFICER SYKES: Not sure, okay.

3 [Long pause]

4 HEARING OFFICER SYKES: And, I guess -- you
5 testified about her being at the store, you said, at
6 least once a week. Is there like a timeframe of when
7 that started, or has that always been the case that she
8 was there once a week?

9 THE WITNESS: It has always been the case, yeah.

10 HEARING OFFICER SYKES: Okay.

11 [Long pause]

12 HEARING OFFICER SYKES: Okay, I don't think I have
13 any other questions.

14 MR. QUINTO-POZOS: I don't have anything further.

15 MR. RAHHAL: Nothing further.

16 HEARING OFFICER SYKES: Okay, Dani, well, thank you
17 for taking the time to do this, and --

18 MR. RAHHAL: Thanks.

19 MR. QUINTO-POZOS: Thank you.

20 HEARING OFFICER SYKES: -- you are excused.

21 Thank you.

22 THE WITNESS: Thank you.

23 [Witness excused]

24 HEARING OFFICER SYKES: Okay, so the Petitioner, if
25 they have further witnesses, they can call them, or if

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1 the parties want to take a quick five-minute break, we
2 could do that, as well.

3 MR. RAHHAL: Could we take a ten-minute break?

4 HEARING OFFICER SYKES: Yeah, ten minute. We can
5 do ten, yeah, that's fine.

6 MR. RAHHAL: Thank you.

7 HEARING OFFICER SYKES: Okay, so 10:37, I guess,
8 around then.

9 Okay, can we go off the record?

10 *[Off the record]*

11 HEARING OFFICER SYKES: Okay. The Petitioner can
12 call their next witness.

13 MR. QUINTO-POZOS: Yes. The Petitioner would like
14 to call Morgan Leavy.

15 HEARING OFFICER SYKES: Mr. Morgan, I think you've
16 been observing, so you know I'm Paul, the Hearing
17 Officer with the Labor Board. Just to make sure to give
18 audible responses, and if anybody objects to a question,
19 just let me rule on the objection before answering.
20 I'll go ahead and swear you in.

21 (Whereupon,

22 **MORGAN LEAVY**

23 having been sworn/affirmed, was called as a witness
24 herein, and was examined and testified via video-
25 conference, as follows:)

1 HEARING OFFICER SYKES: Okay, you can start your
2 examination.

3 DIRECT EXAMINATION

4 Q BY MR. QUINTO-POZOS: Would you please state and
5 spell your name?

6 A Yes. My name is Morgan Leavy, M-o-r-g-a-n, L-e-a-
7 v-y.

8 Q And how are you employed?

9 A I'm employed with Starbucks.

10 Q What's your job title?

11 A I'm a barista and barista trainer.

12 Q How long have you worked at Starbucks?

13 A This time around it has been about seven months.

14 Q And does that mean you worked there previously?

15 A I did. I worked at a store in Montrose, Colorado
16 in 2020 for six months.

17 Q And when you were hired at 45th, how did you apply?

18 A I had just moved to Austin, and I had another job
19 fall through, so I went into my local Starbucks, which
20 is 45th and Lamar, and talked to Tim. I wish I
21 remembered his last name, but he was our training ASM at
22 the time. He said that 45th was hiring, so he told me to
23 submit an application online, and they would get the
24 process started right away.

25 Q Did you apply to any other stores?

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1 A I did not.

2 Q And what happened after your application?

3 A After I applied, Tim was mainly contacting me about
4 getting an interview, and then I had an interview with
5 Tim and Amanda.

6 Q And who is Amanda?

7 A Amanda is our store manager.

8 Q Okay. Was the district manager at the interview?

9 A She was not.

10 Q Did you speak to the district manager during the
11 process of being hired?

12 A I did not.

13 Q And eventually you were offered the job?

14 A Yes.

15 Q And did Tim or Amanda say what role the district
16 manager played in you being hired?

17 A No, they did not.

18 Q Did they say they needed to clear your hire with
19 her, with the district manager?

20 A No. As far as I know, everything mostly goes
21 through Amanda, the store manager.

22 Q Do you know who makes the schedule at 45th?

23 A I do. It is most usually the store manager,
24 Amanda, but if we have an assistant store manager, which
25 recently we just hired on and her name is Alyssa

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1 Sanchez, then the store manager like helps the ASM learn
2 how to create the schedule and then that's typically
3 their responsibility.

4 Q And how do you inform Starbucks about your
5 availability?

6 A So we have the app, the Partner Hours app, that you
7 can plug in your specific availability. Amanda asks
8 that we have a conversation with her first just so she's
9 not kind of like surprised about the availability and so
10 that she can kind of have a conversation with you first.
11 Then you approve it through the app.

12 Q And have you had occasion to inform Starbucks about
13 your availability?

14 A I have. My availability has changed a few times.

15 Q Okay. And you described a process of having a
16 conversation, what happens after that conversation?
17 Sorry if you already said that.

18 A No, that's okay. So I first go to Amanda and say,
19 hey, this thing has changed for me and is this okay if I
20 request it in the app, and usually either that day or
21 the next she says to me, yes, I will like approve your
22 availability and then it happens in the app afterwards.

23 Q Do you know what role the district manager plays in
24 changes in availability, that process you described?

25 A As far as I know that all goes through the store

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1 manager.

2 Q How do baristas and -- well, let's just stick with
3 baristas since that's your title. How do baristas swap
4 shifts at 45th?

5 A We have a couple of GroupMe, group chats, as well
6 as the app, so we most often, especially if it's urgent
7 or within a week or two, try and switch shifts within
8 the group chat. Then once you agree to that with
9 someone, you'll say, okay, let's go ahead and swap that
10 in the app. Sometimes people don't do that, and they
11 just offer up their shift on the app and would just like
12 to be taken. It just kind of depends on the severity I
13 guess.

14 Q Okay. And can you swap shifts with partners from
15 other stores?

16 A No.

17 Q Do you work at other stores?

18 A I have worked at one other store one time, and it
19 was not in our district.

20 Q What store was that?

21 A It was a store in Butta. It was off of the
22 highway. That's all I know.

23 Q Okay. And when was that?

24 A It was during Austin's water well notice because
25 all of the Starbucks stores in Austin were closed.

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1 Q And what is it like working there?

2 A Very different from my store in some ways. We were
3 both busy, but this was a drive-thru store and 45th is a
4 café only store, so we are heavy on café and mobile
5 orders whereas this other place their main source is the
6 drive-thru orders.

7 I have worked in a drive-thru store before. That
8 was my first store, so I was familiar with the way that
9 it works, but it was very hectic, stressful, and kind of
10 disorienting. You get to know your store and its layout
11 very well, so after that day I pretty much told myself I
12 would never do it again.

13 Q Okay. Have you been asked to work at another
14 store?

15 A Yes.

16 Q And have you agreed to?

17 A No, other than that one time.

18 Q Have you ever volunteered to work at another store?
19 Well, let's stick to the time you've been at 45th.

20 A No, other than that one shift in Butta, I have not
21 volunteered to take any other shifts.

22 Q And why is that?

23 A As I mentioned -- well, one -- sometimes it can be
24 less convenient, but I would prefer to work a shift at
25 my store because of the relationships I have with my

1 fellow baristas and the relationships I have with our
2 regular customers, and it can be disorienting at other
3 stores. Every store layout is just a little bit
4 different, so I may be the best bar partner at 45th or
5 one of the best, but when I go to another store you get
6 slowed down, your rhythm is kind of different, and it an
7 become really anxiety giving as well as you don't have
8 kind of the flow with the other baristas at that store
9 because you don't know them.

10 Q So I'm sorry if I didn't understand this, but when
11 you worked at Butta, were you told to work there or did
12 you choose to work there?

13 A Okay. I think that was my fault. I volunteered to
14 work there because I really needed hours and our stores
15 were closed for a few days, so the shifts were offered
16 for stores outside of our district and outside of the
17 city, and I chose to take that shift.

18 Q And so -- okay. In the time -- when you've been
19 present at 45th, have you seen baristas or shift
20 supervisors working there from other stores?

21 A Only a couple of times.

22 Q Let's talk about discipline at the 45th store. Who
23 -- have you ever been disciplined?

24 A I have not.

25 Q Have you had any kind of -- I don't know what

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1 they're called. I can't remember what their called
2 right now, but verbal warnings or counselings or
3 coachings?

4 A I don't know if it would count as a like verbal
5 warning in writing or -- anyway, I don't know. But I
6 was corrected on my dress code about a month or so ago
7 with things that we had already -- I had been wearing
8 since I started, and then suddenly was told that I
9 wasn't allowed and that it would be enforced.

10 Q And who corrected you on that?

11 A Amanda, the store manager.

12 Q Okay. If there's conflict at the 45th Street store
13 between baristas or between a barista and a shift
14 supervisor, who handles that?

15 A First you handle it amongst yourselves, and if it
16 cannot be resolved you go to the store manager.

17 Q And do you know what role the district manager
18 plays in that?

19 A As far as I know if it has to deal with just like
20 baristas and shifts, it would stay with the store
21 manager, and perhaps if it was something of a more very
22 serious nature such as like sexual assault or something,
23 it may move up to the district level, but as far as I
24 know it says at the store manager level.

25 Q Okay. And you said you worked in Colorado before

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1 you worked at the 45th Street store, right?

2 A Correct.

3 Q And you left that job voluntarily?

4 A I did.

5 Q Okay. And so you tendered a resignation?

6 A Yes.

7 Q And who did you tender that to?

8 A The store manager. I gave a letter of resignation,
9 and I had a conversation with my store manager.

10 Q And at 45th have you known of people who have
11 resigned at 45th?

12 A Yes.

13 Q And do you know who they had given their
14 resignations to?

15 A To the store manager.

16 Q And how is it that you know that?

17 A From conversations that I've had with baristas who
18 I'm also close friends with. If it wasn't through a
19 letter of resignation, it was because someone changed
20 their availability, and it couldn't be accommodated.

21 Q Okay. And was than attempt to change their
22 availability similar to the process you described above
23 or earlier?

24 A Yes.

25 Q Meaning that was something they tried to do with

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1 the store manager?

2 A Yes.

3 Q Okay.

4 MR. QUINTO-POZOS: I'll go ahead and pass the
5 witness.

6 HEARING OFFICER SYKES: Do you have any cross
7 examination?

8 MR. RAHHAL: I have just a few questions.

9 CROSS EXAMINATION

10 Q BY MR. RAHHAL: Good morning, Morgan, how are you
11 doing?

12 A I'm good. How are you?

13 Q And do you mind if I refer to you as Morgan?

14 A Sure thing.

15 Q And you can call me Steve. So just to make sure
16 I'm clear. We refer to the store you're currently
17 working as Store 45. Is that right? Or the 45th Street
18 store?

19 A Yeah, I say 45th, but it's 45th and Lamar.

20 Q Okay, the 45th. Can I call it the 45th store?

21 A Sure.

22 Q Okay. And you've been working there for about
23 seven months, correct?

24 A Yes, since September.

25 Q Okay. Now just so I get this because I hear

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1 different things from different people, but are you
2 aware of what, if any, involvement Susan -- well, first
3 of all, do you know who Susan Nixon is?

4 A I do.

5 Q And you understand her to be the district manager
6 for District 653, correct?

7 A I do.

8 Q Okay. And are you aware of what, if any,
9 involvement Susan has in hiring partners in District
10 653?

11 A I'm sorry. I'm trying to understand your question.

12 Q Do you know if Susan is involved in hiring
13 decisions in District 653?

14 A I do not.

15 Q Okay. Since she could be, you just don't know. Is
16 that correct?

17 A Correct.

18 Q Okay. And do you know if Susan is involved in
19 setting schedules for the stores in District 653?

20 A I am 98 percent sure that she does not have
21 involvement in schedule making.

22 Q So you're two percent unsure that she might be
23 involved in that, correct?

24 A Yes.

25 Q So if Susan said she was intimately involved in

1 setting schedules, you wouldn't say she was lying, would
2 you?

3 A I would not be able to say she was lying, no.

4 Q Okay. Do you know what, if any, involvement Susan
5 has in deciding when a store opens and closes within
6 District 653?

7 A I do not know.

8 Q Okay. Do you know what, if any, involvement Susan
9 has in the discipline of partners in District 653?

10 A I assume as like a normal chain of command that if
11 the situation is serious enough and is not being
12 resolved with the store manager that it would move up to
13 the district manager level.

14 Q Okay. And you don't know what, if any, involvement
15 Susan has in the decision to terminate partners in
16 District 653. Is that correct?

17 A Correct.

18 Q Okay. Have you met Susan before?

19 A I have.

20 Q Okay. When did you first meet Susan if you recall?

21 A Yeah.

22 Q I know. It's hard for me to recall things.

23 A Yeah. Susan stops by the store every once in
24 awhile, so I think it was within the first few months I
25 was working. I met her in passing kind of thing, like

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1 at the store on a day when I was working.

2 Q Okay. Have you ever met with Susan about an issue
3 that you were having at Starbucks?

4 A Not in person, but yes, I had one phone
5 conversation with Susan about two and a half or three
6 months ago.

7 Q Okay. And what was the reason of why you were
8 calling Susan on the phone?

9 A I called Susan to address an issue we were having
10 with our store manager.

11 Q Okay. And the store manager's name again is?

12 A Amanda.

13 Q Okay. And how many times did you talk to Susan on
14 the phone about Amanda?

15 A One time.

16 Q Okay. Did you ever meet with Susan in person to
17 discuss Amanda?

18 A I did not.

19 Q Okay. And was there any resolution during your
20 phone call with Susan about Amanda?

21 A Yes. It was going to be taken to the shifts, which
22 Dani had mentioned earlier, that it would probably go to
23 a shift meeting and potentially a store meeting. It did
24 not end up turning into a store meeting about said
25 issue.

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1 Q Has the issue been corrected?

2 A That's kind of a hard question to answer.

3 Q Well, let me ask you, what is the issue?

4 A We had issues with our store manager's behavior.

5 It has improved. I will say that.

6 Q Okay. Have you ever had meetings at other

7 Starbucks locations within your district?

8 A No.

9 Q Okay. Have there ever been meetings that you've
10 attended in your store where partners from other stores
11 within the district also attended?

12 A No.

13 Q Okay. Now I believe you said you have never worked
14 at another store within your district. Is that correct?

15 A Correct.

16 Q Do you know other partners that are homed at your
17 store but that have worked at stores within the
18 district?

19 A Yes, I do.

20 Q Okay. Approximately how many partners are you
21 aware of that are based at the 45th store that work at
22 other stores within the district?

23 A It's not a frequent happening, so I'd say maybe a
24 few, a few people who do want once in awhile.

25 Q Are you friends with most of the partners in your

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1 store or the 45th Street store?

2 A Yes, I am.

3 Q Do some of those partners like working at other
4 stores within the district?

5 A No. Every single person I know does not like
6 working at any other store.

7 Q They've actually expressed to you their dislike
8 working at other stores?

9 A Correct.

10 Q Okay. Do you know any partners from other stores
11 who have trained at your store?

12 A No, I do not.

13 Q Do you know of any partners at your store that who
14 have trained at other stores?

15 A I think one person comes to mind who trained at
16 another store.

17 Q Okay. Do you know any partners from other stores
18 who have actually worked at your store?

19 A Yes.

20 Q Okay. Approximately how often does that happen
21 that partners from other stores in your district work at
22 your store?

23 A Since I have been at our store, in the last seven
24 months I have seen two people pick up one or two shifts
25 from other stores at our store.

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1 Q Were you working at the 45th Street store when it
2 closed for Covid?

3 A I was not.

4 Q Okay.

5 MR. RAHHAL: I have no other questions.

6 HEARING OFFICER SYKES: Do you have any redirect?

7 MR. QUINTO-POZOS: I do not.

8 HEARING OFFICER SYKES: I think I have just one or
9 two questions.

10 EXAMINATION BY COURT

11 HEARING OFFICER SYKES: Okay. So when you were
12 hired at the 45th store, were you offered the job at the
13 interview or was it at a time after the interview?

14 THE WITNESS: At the interview.

15 HEARING OFFICER SYKES: Okay. And just so I can
16 get the record clear, you mentioned an individual named
17 Tim. What was your understanding of his position?

18 THE WITNESS: Yeah. So our store manager, Amanda,
19 was a store manager trainer, and so she was training
20 Tim. So he was functioning as an assistant store
21 manager training to become a store manager from my
22 understanding.

23 HEARING OFFICER SYKES: I see.

24 THE WITNESS: Yeah.

25 HEARING OFFICER SYKES: And do you know what store

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1 Tim works at now?

2 THE WITNESS: We just had this conversation
3 recently. He has been one of those people that was
4 thrown around to a bunch of different places, so
5 honestly I don't know.

6 HEARING OFFICER SYKES: I see. And when you were
7 hired at the 45th store, were you required to do any sort
8 of training?

9 THE WITNESS: I was because I was like formally
10 finished at Starbucks at the beginning of 2021, so I had
11 to retrain as a barista.

12 HEARING OFFICER SYKES: So who -- where did you do
13 that and who conducted your training?

14 THE WITNESS: I did that training at 45th with a
15 barista trainer. Well, actually with Tim who was
16 technically a barista trainer as well.

17 HEARING OFFICER SYKES: Okay. And you had
18 mentioned, and I hope I'm not misunderstanding, but is
19 it correct that you declined offers to pick up shifts at
20 other stores?

21 THE WITNESS: Yes.

22 HEARING OFFICER SYKES: Okay. And did you suffer
23 any discipline or repercussions for doing that?

24 THE WITNESS: No.

25 HEARING OFFICER SYKES: And then during your time

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1 at the 45th store have you ever had to either request a
2 day off or would not be able to make your shift on short
3 notice?

4 THE WITNESS: I have called out one time for
5 sickness where I was not responsible to find someone to
6 replace my shift. But yes, I have switched shifts with
7 people so that I could find coverage for something I
8 could not work.

9 HEARING OFFICER SYKES: And when you called off
10 sick, who did you inform that you wouldn't be there?

11 THE WITNESS: I informed the shift supervisor that
12 was on duty because I was an opener, so the store
13 manager was not in yet.

14 HEARING OFFICER SYKES: I see. And then the other
15 circumstances where you've I guess swapped shifts or
16 made changes to your shift, who did you discuss that
17 with?

18 THE WITNESS: Usually just switching in the app or
19 offer up the shift in the app with no further
20 discussion, and I try my best to -- we try our best to -
21 - if we can change the schedule like physically in the
22 store, we do so, or we let the shift supervisor know,
23 hey, can you write down that I won't be there and so and
24 so will be taking my shift that day.

25 HEARING OFFICER SYKES: I see. And does that mean

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1 -- so is there a paper schedule posted somewhere at the
2 store?

3 THE WITNESS: Yes. We have a paper schedule of
4 like the week-long schedule, and then there's the
5 schedule for the day, and that's the one that really
6 matters so that the shift supervisor can see who is
7 working.

8 HEARING OFFICER SYKES: I see. And then for the
9 schedule for the da or the week are there changes made
10 in like pen or pencil or are there any cross outs?

11 THE WITNESS: Yeah. Usually you just cross it out
12 in pen and write a different name.

13 HEARING OFFICER SYKES: And as a partner at that
14 store, would there be any way to see these changes made
15 in pen without actually seeing them firsthand? I guess
16 what I mean is would the app reflect those changes?

17 THE WITNESS: If the change is made before that
18 week then I'm pretty sure the paper would reflect what
19 was in the app. If it was made like the week of then
20 those pages have already been printed out.

21 HEARING OFFICER SYKES: Okay. I don't think I had
22 anymore questions. Does anybody have --

23 MR. QUINTO-POZOS: I do not.

24 MR. RAHHAL: I have none.

25 HEARING OFFICER SYKES: Okay. Well, thank you,

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1 Morgan. You are excused, and you're welcome to observe
2 the rest of the hearing. I don't think there will be
3 much other than discussion of how to do an election if
4 we direct one, but you're welcome to observe that if you
5 would like to.

6 THE WITNESS: Thank you.

7 *(Witness excused.)*

8 HEARING OFFICER SYKES: Okay. I guess we'll go off
9 the record.

10 *(Off the record.)*

11 HEARING OFFICER SYKES: Does the Petitioner have
12 any additional witnesses they would like to present?

13 MR. QUINTO-POZOS: We do not.

14 HEARING OFFICER SYKES: Okay. And I guess, Jen, do
15 you have an estimate of how long the record is at this
16 point?

17 COURT REPORTER: Maybe 75 pages.

18 HEARING OFFICER SYKES: Okay. I guess at this
19 point I will allow the -- I guess I'll allow the
20 Employer to present their final position on this, and
21 then after that we'll discuss election details, but you
22 can provide your final position on the bargaining unit.

23 MR. QUINTO-POZOS: Can I put in my exhibits before
24 we do that?

25 HEARING OFFICER SYKES: Oh, sorry about that. Yes,

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1 that's right. So the Petitioner has some exhibits that
2 are referenced in Board's Exhibit 2, so I will let them
3 offer those in.

4 MR. QUINTO-POZOS: The Petitioner would offer
5 Petitioner's Exhibit 1 which is an excerpt of the
6 Employer's aggregate data for fiscal year 2022. It is
7 filtered for employees who worked at Store 6328 or the
8 45th Street store during fiscal year 2022.

9 **(Petitioner's Exhibit No. 1 marked for identification.)**

10 HEARING OFFICER SYKES: Any objections to
11 Petitioner's Exhibit 1?

12 MR. RAHHAL: No.

13 HEARING OFFICER SYKES: Okay. Hearing no
14 objections, Petitioner's Exhibit 1 is entered into
15 evidence.

16 **(Petitioner's Exhibit No. 1 received into evidence.)**

17 MR. QUINTO-POZOS: And then the Petitioner would
18 offer Exhibit 2 which is an excerpt of the Employer's
19 aggregate data filtered for employees whose home store
20 is Store 6328, the petitioned for store, or the store at
21 45th for the fiscal year 2022.

22 **(Petitioner's Exhibit No. 2 marked for identification.)**

23 HEARING OFFICER SYKES: Any objections to
24 Petitioner's Exhibit 2?

25 MR. RAHHAL: No.

1 HEARING OFFICER SYKES: Okay. Hearing no
2 objections, Petitioner's Exhibit 2 is entered into
3 evidence.

4 **(Petitioner's Exhibit No. 2 received into evidence.)**

5 MR. QUINTO-POZOS: And that's it.

6 HEARING OFFICER SYKES: Okay. All right. So at
7 this point I will allow the parties to present their
8 final positions on the appropriate units. After that we
9 will begin discussions on the position of the method of
10 election, so if the Employer is ready, they can present
11 their final position on the bargaining unit.

12 CLOSING STATEMENT

13 MR. RAHHAL: Yeah. I mean our position was in
14 Austin I and continues to be in Austin II that the only
15 appropriate unit are the 13 facilities, the 13 stores in
16 District 635.

17 Regardless of what the Union's witnesses have
18 stated and their lack of knowledge about certain
19 decisions, the fact is, and the facts are undisputed,
20 that Susan Nixon, the district manager for 635, she is
21 involved in recruiting decisions, she is involved in
22 hiring decisions, she is involved in creating schedules,
23 she's involved in promotions, she's involved with
24 staffing, she's involved with setting store hours, she's
25 involved with terminations, she's involved with setting

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1 store wages and benefits. There can be no argument that
2 you can separate these stores from one another. They
3 are so functionally intertwined that it's ridiculous to
4 say that one store can operate as a single unit or
5 single appropriate unit.

6 Under Board law, even old Board law, which is what
7 we're relying on when we talk about voluntary versus
8 involuntary, which I believe under the Starbucks model
9 really doesn't matter because we don't need involuntary
10 because we get the voluntary movement, but under Board
11 law as exists, as it exists, the only appropriate unit
12 in this case is a unit of all the stores in District
13 635. Any other unit would be ridiculous and makes
14 absolutely no sense the way Susan Nixon operates the
15 stores within her district.

16 HEARING OFFICER SYKES: And does the Petitioner
17 want to provide a final position on the record?

18 MR. QUINTO-POZOS: Yes.

19 CLOSING STATEMENT

20 MR. QUINTO-POZOS: The Petitioner's position is
21 that in this case, as was true in the Austin I case and
22 has been true in all the other cases that have been
23 heard throughout the country in multiple different
24 regions, it is clear that the single store unit is an
25 appropriate unit in this case.

1 Regardless of counsel for the Employer's
2 construction of the testimony and the evidence, it is
3 clear from what the witnesses have testified to in this
4 case and prior cases that there are significant
5 differences between the stores in the district in the
6 way that the schedules are created, whether the manager
7 is successfully or unsuccessfully able to create
8 schedules in advance and to keep those schedules as they
9 are in the ways that the work environment varies from
10 store to store.

11 We had witnesses in this very hearing say that the
12 experience of working at one store versus another store
13 is widely different to the point that employees from
14 this store do not enjoy working at other stores, and
15 they avoid it whenever possible.

16 Of course, we'll have the punch data or the
17 aggregate data to be able to see exactly how infrequent
18 the interchange between the employees is. Contrary to
19 counsel for the Employer's position, I do think that
20 it's significant that the interchange is 100 percent
21 voluntary in this case and other cases.

22 So for those reasons, the Petitioner would argue
23 that the petitioned for unit is appropriate in this case
24 and asks the Regional Director to order an election for
25 this store as a single store unit.

1 HEARING OFFICER SYKES: Okay. Thank you. I just
2 have to get this on the record, but I think I know the
3 answer. Do the parties wish to present anymore
4 witnesses or evidence which they haven't presented
5 already?

6 Okay. Hearing no response.

7 And this is for the Petitioner. Is the Petitioner
8 prepared to proceed to an election in any unit found
9 appropriate in this matter?

10 MR. QUINTO-POZOS: Yes.

11 HEARING OFFICER SYKES: Okay. And we'll discuss
12 the election details, but first I want to ask the
13 Petitioner, who is entitled to the voting list, so I
14 wanted to get their position on whether they would be
15 willing to waive any portion of the 10-day requirement.

16 MR. QUINTO-POZOS: We wish to waive 7 days of the
17 10-day requirement.

18 HEARING OFFICER SYKES: Okay. Thank you. Okay.
19 We can go off the record. I just have to email this
20 Board Exhibit 5.

21 (Off the record.)

22 HEARING OFFICER SYKES: Okay. Now I would like to
23 explore the election details in the event an election is
24 directed.

25 If an election is directed, it will be schedule for

1 the earliest date practical. So I'm first looking at
2 the Employer's position statement. In their position
3 statement they have proposed an election taking place on
4 May 18th from 9:00 to 10:30 and 3:00 to 4:30 at the AC
5 Hotel, Austin University, 1901 San Antonio Street. So I
6 guess there's -- the Employer, is this still their
7 position of the most efficient way to do the election if
8 one is directed?

9 MS. MEYER: Yes, this is still our position. We
10 have been looking into other possible locations for a
11 manual election, so as a potential alternative to the
12 hotel that we suggested there is a location called the
13 Hancock Recreation Center, which is, you know, like a
14 building operated by the City of Austin located at 811
15 East 41st Street. It has multiple, you know, classrooms
16 and even a ballroom that we would be able to reserve as
17 an alternative to the hotel if the Board finds that that
18 would be more convenient.

19 HEARING OFFICER SYKES: I see. And do you know off
20 the top of your head how far that is away from this
21 particular location?

22 MS. MEYER: It's a 7-minute drive.

23 HEARING OFFICER SYKES: Okay. And what is the
24 Employer's position as to conducting the election at the
25 store itself?

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1 MS. MEYER: Yeah. We remain -- you know, we still
2 have the same position that it would be infeasible to
3 conduct the election in the store due to the Board's
4 safety protocols as well as just the disruption it would
5 cause to business operations and trying to keep the
6 store open and serve customers while an election is
7 taking place.

8 HEARING OFFICER SYKES: I see. And does the
9 Employer have a position as to whether a tent could be
10 used in a parking lot or nearby space?

11 MS. MEYER: We do oppose using a tent on the
12 Starbuck's premises. Again, it would be disruptive to
13 business operations while customers are trying to
14 patronize the store.

15 HEARING OFFICER SYKES: I see. And I don't know
16 but does this particular location -- is it -- it's a
17 café only. Is that right?

18 MS. MEYER: I believe that's correct.

19 HEARING OFFICER SYKES: And do you know whether or
20 not the Starbucks owns the particular parking lot or
21 area?

22 MS. MEYER: I don't know that.

23 HEARING OFFICER SYKES: Are there any particular
24 dates where you believe an election would not be
25 feasible or would be dates which, you know, an election

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1 could not be conducted?

2 MS. MEYER: I'm not aware of any particular dates
3 on which an election could not be conducted.

4 HEARING OFFICER SYKES: Okay. And please be
5 advised that if the Employer does not agree to permit
6 the election to be held at the Employer's facility that
7 the Regional Director at his or her discretion will
8 direct a mail ballot or offsite election.

9 So I'll ask the Petitioner their position on
10 conducting an election. So what is their position on
11 all the details. You know, when it should be conducted,
12 where, times, those details.

13 MR. QUINTO-POZOS: Yeah. The Petitioner's position
14 would be that -- after consulting with a number of
15 employees that a Saturday would be the best day and most
16 convenient for most employees, and if it was spread over
17 two days, a Friday and a Saturday, then that would be
18 even better.

19 In terms of the times, the Petitioner would mostly
20 agree to the time periods that the Employer has
21 suggested but would request that a midday period say
22 between 12:00 and 1:30 be added so that there is the
23 ability to capture more voters. I believe this is
24 already implied in what I said, but if it's a single day
25 election, the Petitioner's position would be that it

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1 should be on a Saturday.

2 In terms of the location, the Petitioner is not in
3 agreement that the hotel on Martin Luther King Boulevard
4 is a convenient location for the employees at this
5 store. As we've heard, some employees do not have
6 transportation, and so it would not be possible or
7 convenient for most employees to go to such a relatively
8 remote location for people who don't have
9 transportation.

10 It's the Union's position that it seems that a tent
11 on the premises should be feasible. There are --
12 Starbucks is not the only business at this location.
13 There are other various and ample parking areas, and so
14 it seems like it should be feasible to place a tent in
15 an area where it would not be disruptive to the
16 operations.

17 In the responsive statement, the Petitioner also
18 stated that there is a neighborhood park, Ramsey
19 Neighborhood Park, that is approximately a four block
20 walk from the store. I'm happy to circulate this via
21 email to all the parties. I have been in discussions
22 with the City of Austin, and they have said that a
23 permit is not required for this facility, and so that
24 seems like a convenient option. The Union is not
25 formally opposed to the alternative that Ms. Meyer has

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1 mentioned if that turns out to be available. It is a
2 location that's further away. I think she indicated
3 that would be a 7-minute drive, and again, it's not
4 clear how convenient that would be for the voters
5 especially those who don't have transportation.

6 So I believe I've covered all the details, all the
7 relevant details.

8 HEARING OFFICER SYKES: I see. And there is any
9 particular date that the Union has a preference for or
10 is it just as soon as possible?

11 MR. QUINTO-POZOS: As soon as possible and a
12 Saturday.

13 HEARING OFFICER SYKES: And a Saturday.

14 MR. QUINTO-POZOS: Or a Friday/Saturday.

15 MR. RAHHAL: Is it okay if I leave the
16 conversation?

17 HEARING OFFICER SYKES: Oh, yes.

18 MR. RAHHAL: Thank you, everybody.

19 HEARING OFFICER SYKES: Yeah, thank you. So I
20 guess I'll get the Employer's position on the proposal
21 of a tent in this park that is nearby the location.

22 MS. MEYER: Would it be a tent, Manuel, or was
23 there a building available?

24 MR. QUINTO-POZOS: Are we talking about the --

25 MS. MEYER: At the park.

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1 MR. QUINTO-POZOS: So I don't have all the detail
2 worked out. What I understand is that there can be two
3 10x10 canopies that are allowed without a permit. I
4 think that the City's website says that a rental tent
5 requires a permit, but I don't know if that's like for a
6 large, you know, event type tent with walls and all of
7 that. That might require a permit, which is not
8 possible at this location.

9 HEARING OFFICER SYKES: I see. And I don't know
10 what the position would be of the Region. As far as a
11 tent, from what I've observed in other cases, not even
12 necessarily just Starbucks, I believe it's usually an
13 enclosed tent, but I don't know if there's any hard and
14 fast rule that it has to be an enclosed tent. But I can
15 see. That might be the preference, but I don't know for
16 sure whether that is the case.

17 MS. MEYER: I was going to say I don't think we're
18 opposed to holding the election, you know, in a tent as
19 long as it's offsite, but we do oppose holding it in the
20 Starbuck's parking lot at the store.

21 MR. QUINTO-POZOS: And I was going to say that I
22 can circulate this to all the parties, but for the
23 benefit of the Region, the contact information for the
24 Austin Parks and Recreation Department, which is the one
25 that -- is the relevant authority for Ramsey Park, and I

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1 believe also for the Hancock Recreational Center.

2 HEARING OFFICER SYKES: Okay. Yes, you could
3 circulate that. That would be helpful.

4 And I guess I'll ask the Petitioner what -- do they
5 have a position either way on whether a mail ballot
6 would be appropriate?

7 MR. QUINTO-POZOS: The Petitioner's position would
8 be that if there is not a sufficient -- a location
9 that's sufficiently physically close to the petitioned
10 for store in which a manual election can be held then a
11 mail ballot election would be appropriate given the
12 scattered nature of the schedules and the lack of
13 availability of the store as a location.

14 HEARING OFFICER SYKES: I see. And does the
15 Employer have a position on a mail ballot election?

16 MS. MEYER: Yes. We oppose a mail ballot. We
17 believe a manual is appropriate.

18 HEARING OFFICER SYKES: Okay. I don't know if this
19 is something the Employer knows. If an election were to
20 be directed at a tent, what is the Employer's position
21 on whether -- would they be willing to pay for that
22 tent, would they request that the Region pay for it, or
23 would the parties agree to split the cost, I guess?

24 MS. MEYER: I don't know about that.

25 HEARING OFFICER SYKES: Okay.

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1 MS. MEYER: I guess it depends on where the tent
2 is.

3 HEARING OFFICER SYKES: Yeah.

4 MR. QUINTO-POZOS: I also don't know about that, and
5 my question is do the regulations allow that?

6 HEARING OFFICER SYKES: I don't know if they
7 clearly prohibit it, but it may be a case where the
8 Region is required to be the party that pays for it, but
9 there may be -- it may be allowed that the parties
10 either split the cost or one party pays for it, but I
11 don't know yet what exactly the requirements would be
12 for that. Sorry I couldn't give more information that.
13 I honestly don't know what the official provision is
14 from the Region or the agency in general.

15 And I don't know if the Petitioner knows. Do you
16 know how far of a walk this would be from that location?

17 MR. QUINTO-POZOS: From the park?

18 HEARING OFFICER SYKES: Yeah.

19 MR. QUINTO-POZOS: No. I think -- I just saw that
20 it was four blocks.

21 HEARING OFFICER SYKES: Okay. But you believe it
22 is a walkable distance though?

23 MR. QUINTO-POZOS: Yes.

24 HEARING OFFICER SYKES: Okay. And the Recreation
25 Center the Employer mentioned, that is not walkable?

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1 MS. MEYER: I don't believe so.

2 HEARING OFFICER SYKES: Okay. And I don't know if
3 the Petitioner knows this, but do they know like what
4 percentage of employees at the store lack, I guess,
5 transportation like their own car or other way to get
6 places?

7 MR. QUINTO-POZOS: I'm sorry. I don't have that
8 information.

9 HEARING OFFICER SYKES: Okay. That's okay. I
10 don't know if the Employer would know that.

11 MS. MEYER: I don't know that.

12 HEARING OFFICER SYKES: And then what's the
13 Employer's position -- the Union has proposed or has
14 indicated that Saturday they believe is the best day or
15 even a Friday and Saturday. Do they have any position
16 on what days of the week would be best?

17 MS. MEYER: We had proposed a Wednesday thinking
18 that would be the best. You know, we're not opposed to
19 holding an election on a different day such as a
20 Saturday.

21 HEARING OFFICER SYKES: And as far as their
22 position that a middle voting period from 12:00 to 1:30,
23 do you believe that is necessary or do you have a
24 position on that?

25 MS. MEYER: I mean we don't oppose adding an

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1 additional voting period. We also support anything that
2 will increase voter turnout and make it more convenient.

3 HEARING OFFICER SYKES: Okay.

4 MR. QUINTO-POZOS: And I -- Google seems to think
5 that it's a 4-minute -- sorry, a 6-minute walk, but that
6 might be a slow walk. I think it's closer than that.

7 HEARING OFFICER SYKES: Okay. And I'll ask this of
8 the Employer. If the Region were to direct a district-
9 wide election with all 13 stores, what is the Employer's
10 position on where that location would be conducted?

11 MS. MEYER: Well, we've already proposed the hotel
12 as the location for at least one of the votes. I think
13 that would be appropriate for the downtown stores, but
14 you know, we would be open to looking at a second
15 location that would be more convenient for additional
16 stores.

17 HEARING OFFICER SYKES: Okay. And I guess the
18 Petitioner's position if a district-wide were conducted.

19 MR. QUINTO-POZOS: The Petitioner's position would
20 be that if a district-wide election were to be ordered,
21 then certainly a mail ballot election would be
22 appropriate in that instance because of the
23 scatteredness factor would even be multiplied by 13
24 times. Although, if there were multiple locations that
25 might ameliorate that concern.

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1 HEARING OFFICER SYKES: Okay. If we would go off
2 the record for a second. I'm looking at something.

3 *(Off the record.)*

4 HEARING OFFICER SYKES: So in an off the record
5 discussion it was brought up that there is a state
6 government HHSC building that's nearby the petitioned
7 for store. I asked the Petitioner first whether they
8 would be -- if they would agree to an election to be
9 conducted at room or location in that building. The
10 Petitioner indicated that they would. Does that
11 accurately reflect the Petitioner's position?

12 MR. QUINTO-POZOS: Yes. The Petitioner would agree
13 to an election at that location.

14 HEARING OFFICER SYKES: And I'll ask the Employer,
15 do they have a position on that?

16 MS. MEYER: Without knowing much about the
17 building, I don't think we have an objection based on
18 its location.

19 HEARING OFFICER SYKES: Okay. Now if we'll go off
20 the record.

21 *(Off the record.)*

22 HEARING OFFICER SYKES: In an off the record
23 discussion the Petitioner mentioned a park, Triangle
24 Commons Pocket Park which is also nearby the petitioned
25 for store. Does the Employer have any position on that?

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1 MS. MEYER: No, we don't have a position on that.

2 HEARING OFFICER SYKES: Okay. Does any party have
3 anything else they would like to add regarding the
4 election details or anything else they want the decision
5 writer to consider?

6 MR. QUINTO-POZOS: Not from the Petitioner.

7 MS. MEYER: And not from the Employer.

8 HEARING OFFICER SYKES: I think we've already
9 addressed this in Board's Exhibit 2 that the parties do
10 not believe the ballots or notices need to be
11 translated. Is that right.

12 MR. QUINTO-POZOS: That is right.

13 MS. MEYER: Correct.

14 HEARING OFFICER SYKES: The Employer's onsite
15 representative, is it going to be Susan Nixon, the same
16 information that was provided for the Austin I hearing?

17 MS. MEYER: Yes, that's correct.

18 HEARING OFFICER SYKES: Okay, okay. So the
19 Regional Director will issue a decision in this matter
20 as soon as practical and will immediately transmit the
21 document to the parties and their designated
22 representatives by email, facsimile or by overnight mail
23 if neither an email address nor a facsimile number is
24 provided.

25 Prior to hearing the parties were provided with

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1 Form NLRB 5580, Description of Voter List Requirements
2 After Hearing and Certification and Decertification
3 cases, which explains the Employer's obligation to
4 furnish a voter list should an election be directed in
5 this matter. The document is marked for identification
6 as Board's Exhibit 5.

7 **(Board's Exhibit No. 5 marked for identification.)**

8 Are there any objections to receipt of Board's
9 Exhibit 5?

10 Hearing no objection, Board's Exhibit 5 is received
11 into evidence.

12 **(Board's Exhibit No. 5 received into evidence.)**

13 Any party is entitled upon request for a reasonable
14 period at the end of hearing for oral arguments. Does
15 any party wish to make such a request at this time?

16 Hearing no requests for oral arguments.

17 So any party desiring to submit a brief to the
18 Regional Director shall be entitled to do so within five
19 business days after the close of hearing. Copies of the
20 brief shall be served on all other parties to the
21 proceeding, and a statement of such service shall be
22 filed with the Regional Director together with the
23 brief. No reply brief may be filed except upon special
24 permission of the Regional Director.

25 Does any party wish to waive filing of post-hearing

1 briefs?

2 So hearing nobody waive -- so the briefs would be
3 due on April 18th. Does any party wish to make a request
4 for additional time, and if so, what is the reason?

5 MS. MEYER: The Employer would request an extension
6 of two business days to April 20th on the basis that we
7 have a post-hearing brief due on Thursday the 14th, we
8 have a statement of position due on Friday, April 15th,
9 so numerous deadlines within the Region, and we'd like
10 to have a little bit of additional time for that reason.

11 HEARING OFFICER SYKES: Does the Petitioner have
12 any position on the request for the two-day extension?

13 MR. QUINTO-POZOS: We would not oppose that.

14 HEARING OFFICER SYKES: Okay. Considering that
15 there is -- you know, the Petitioner doesn't oppose this
16 and considering the other obligations with Region 16,
17 the two-day, two business day extension, is granted. So
18 the briefs will be due on April 20th.

19 So the parties are reminded that pursuant to
20 Section 102.5 of the Board's Rules and Regs, briefs and
21 other case documents must be filed by electronically
22 submitting, efilings, through the website NLRB.gov unless
23 the party filing the document does not have access to
24 the means for filing electronically or if filing
25 electronically would impose an undue burden. Briefs or

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1 other documents filed by means of other than efilng
2 must be accompanies by a statement explaining why the
3 filing party does not have access to the means for
4 filing electronically or why filing electronically would
5 impose an undue burden.

6 Filing the brief or other document electronically
7 may be accomplished by using the efilng system on the
8 website at NLRB.gov. Once the website is accessed,
9 click on efile documents, enter the case number, and
10 follow the detailed instructions.

11 The responsibility for the receipt of the documents
12 rests exclusively with the sender. A failure to timely
13 file the brief will not be excused on the basis that the
14 transmission could not be accomplished because the
15 agency's website was offline or unavailable or some
16 other reason absent a determination of technical failure
17 of the site with notice of such posted on the website.

18 So at this point I just want to make sure -- Jen,
19 do you have all the exhibits?

20 COURT REPORTER: I need the Petitioner's -- or I'm
21 sorry, the Employer's 1 through 3.

22 MS. MEYER: Okay. We'll send those.

23 COURT REPORTER: Okay. Thank you.

24 HEARING OFFICER SYKES: Okay. And you said the
25 estimate is about 75 pages.

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1 COURT REPORTER: Yeah, maybe 85.

2 HEARING OFFICER SYKES: So 85. Okay. And then the
3 parties, you know, are requested to -- that they should
4 request an expedited copy of the transcript from the
5 court reporter.

6 And then if there's nothing further, the hearing
7 will be closed.

8 ***[Whereupon, the hearing was closed at 11:47 a.m.]***

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CERTIFICATION

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), in the matter of **Starbucks Corporation (Employer)** and **Workers United Southwest Regional Joint Board (Petitioner)**, **Case No. 16-RC-292620**, on Monday, the 11th of April, 2022, was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the recording, at the hearing, that the exhibits are complete and no exhibits received in evidence or in the rejected exhibit files are missing.

Jen Molinaro, Official Reporter

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